

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-1(b)

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*Attorneys for Brink's U.S., a Division of
Brink's, Incorporated*

In re:

BED BATH & BEYOND INC., *et al.*,¹
Debtors.

Chapter 11

Case No. 23-13359
(Joint Administration)

Honorable Vincent F. Papalia

**LIMITED OBJECTION AND RESERVATION OF RIGHTS OF BRINK'S U.S.
TO NOTICE TO CONTRACT PARTIES TO POTENTIALLY
ASSUMED EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

¹ The last four digits of Debtor Bed Bath & Beyond Inc.'s tax identification number are 0488. A complete list of the Debtors in these Chapter 11 Cases and each such Debtor's tax identification number may be obtained on the website of the Debtors' claims and noticing agent at <https://restructuring.ra.kroll.com/bbby>. The location of Debtor Bed Bath & Beyond Inc.'s principal place of business and the Debtors' service address in these Chapter 11 Case is 650 Liberty Avenue, Union, New Jersey 07083

Brink's U.S., a Division of Brink's, Incorporated ("Brink's"), by and through its undersigned counsel, respectfully submits this reservation of rights and limited objection (this "Objection") to the Debtors' *Notice to Contract Parties to Potentially Assumed Executory Contracts and Unexpired Leases* [Docket No. 714] (the "Cure Notice"). In support of this Objection, Brink's states as follows:

BACKGROUND

1. On April 23, 2023 (the "Petition Date"), the above-captioned debtors and debtors-in-possession (the "Debtors") filed voluntary petitions for relief under Chapter 11 of the Title 11 of the United States Code (the "Bankruptcy Code") with the United States Bankruptcy Court for the District of New Jersey (the "Court").

2. On April 25, 2023, the Court entered an *Order (I)(A) Approving the Auction and Bidding Procedures, (B) Approving Stalking Horse Bid Protections, (C) Scheduling Bid Deadlines and an Auction, (D) Approving the Form and Manner of Notice Thereof, (E) Approving the Form APA, And (II) (A) Establishing Notice and Procedures for the Assumption and Assignment of Contracts, (B) Authorizing the Assumption and Assignment of Assumed Contracts, (C) Authorizing the Sale of Assets and (D) Granting Related Relief* [Docket No. 92] (the "Bidding Procedures Order").

3. On June 13, 2023, in accordance with the Bidding Procedures Order, the Debtors filed the Cure Notice, which established June 26, 2023 at 5:00 p.m. (Eastern) as the deadline by which contract counterparties must file their objections to the Cure Notice (the "Original Cure Objection Deadline").

4. On June 23, 2023, the Debtors filed a *Notice of Amendment of Cure Objection Deadline* [Docket No. 952], which extended the Original Cure Objection Deadline to July 5, 2023 at 9:00 a.m. (Eastern). As such, this Objection is timely filed.

5. Bed Bath & Beyond, Inc. (“**BBB**”), one of the Debtors, is a party to a Service Contract with Brink’s as the successor in interest to Dunbar Armored, Inc. dated May 2, 2002 along with all riders and schedules thereto (the “**Agreement**”) pursuant to which Brink’s provides armored car currency transportation services to BBB.

6. According to Brink’s records, the Debtors currently owe Brink’s \$73,713.07 for services rendered pursuant to the Agreement. Of the \$73,713.07, \$71,066.33 is owed for pre-Petition Date services with the balance owed for post-Petition Date services. Brink’s continues to perform and the Debtors continue to incur additional amounts owed to Brink’s for post-Petition Date services.

7. The Cure Notice states that the cure amount associated with the Agreement is \$0.00 (the “**Proposed Cure Amount**”).

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8. Any assumption of the Contract must be conditioned on the Debtors’ compliance with the requirements of section 365 of the Bankruptcy Code, including but not limited to, paying all amounts due and owing through the effective date of the assumption, and providing adequate assurance of future performance.

9. As of the Petition Date, the Debtors owed Brink’s a total of \$71,066.00 in past-due pre-Petition Date amounts for services. As of the date of filing this Objection, the Debtors owe Brink’s a total of \$73,713.07 for services rendered.

10. To the extent any additional amounts may become due and owing to Brink's prior to any putative assumption, Brink's reserves its right to amend this Objection to seek such additional amounts. Brink's further reserves its right to supplement or amend this Objection to add any further objections under section 365 of the Bankruptcy Code. Brink's also reserves the right to seek discovery on and demand adequate assurance of future performance.

11. Brink's submits this Objection to the Cure Notice to require that the Debtors update the Proposed Cure Amount related to the Agreement to reflect accurately the cure amounts to be at least \$73,713.07, as well as any other amounts that become due and owing under the Agreement through the assumption of said Agreement.

CONCLUSION

WHEREFORE, Brink's respectfully requests that any order entered that establishes the cure amount is consistent with this Objection and the relief requested herein and that the Court grant Brink's such other and further relief as it deems just and proper.

Dated: July 3, 2023

Respectfully submitted,

/s/ Scott H. Bernstein

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